# In the Supreme Court of the United States

OCTOBER TERM, 1887.

JOHN F. HARTRANFT, COLLECTOR OF customs for the district of Philadelphia, plaintiff in error,
*vs.*
JOSEPH B. SHEPPARD, JAMES M. Arrison, and A. Maxwell Sheppard, lately trading as Sheppard, Arrison & Sheppard.
No. 191.

*IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.*

## BRIEF FOR PLAINTIFF IN ERROR.

### STATEMENT OF THE CASE.

In October, 1883, the plaintiffs below imported into the United States 108 quilts; 97 of them composed of eider down and cotton, and 11 of eider down and silk. In all of them eider down was the component material of chief value. The defendant, who was collector of the port of Philadelphia, assessed, and the importers paid under protest, duty on the quilts composed of cotton and eider down at the rate of 35 per centum ad valorem, and on those composed of silk and eider down, 50 per centum ad va-

lorem. The importers claimed all the goods were only liable to a duty of 20 per centum ad valorem as a manufactured article not enumerated or provided for. Appeal was duly taken to the Secretary of the Treasury, and the decision of the collector sustained. The question is raised by a special verdict, and judgment entered thereon in favor of the plaintiffs below.

SPECIAL VERDICT.

And afterwards, to wit, on the day and year last aforesaid, the jurors aforesaid, upon their oaths or affirmations aforesaid, respectfully do say that they find specially as follows, to wit:

1. That in the year 1883 the plaintiffs were merchants in the city of Philadelphia and the defendant was collector of customs for the district of Philadelphia.

2. In October, 1883, plaintiffs imported into the United States, from Liverpool, one hundred and eight quilts.

3. Ninety-seven of these quilts were each composed of and manufactured from two materials, viz., cotton and eider down, and in each the eider down was the component material of chief value. The ninety-seven quilts were together valued at seven hundred and eighty-eight dollars, and the collector imposed a duty of thirty-five per cent. ad valorem on them as manufactures of cotton.

4. The remaining eleven of said quilts were each composed of and manufactured from two materials, viz., silk and eider down, and in each the eider down was the component material of chief value. The eleven quilts were together valued at one hundred and fifty-five dollars and fifty cents and the collector imposed a duty of fifty per cent. ad valorem on them as manufactures of silk.

5. The importers, on November 1, 1883, paid to the collector the duty imposed by him, and duly protested and appealed on the ground that the goods were liable only to a duty of twenty per cent. ad valorem as a manufactured article not enumerated or provided for. The Secretary of the Treasury decided the appeal against the plaintiffs, and this suit was duly brought to recover the amount of duty alleged by plaintiffs to have been illegally exacted.

6. The amount of duty on said one hundred and eight quilts at the rate of twenty per cent. ad valorem is the sum of one hundred and eighty-eight dollars and sixty cents. The amount of duty thereon exacted by the defendant and paid by plaintiffs under protest is the sum of three hundred and fifty-three dollars and thirty cents. The amount exacted by defendant over and above the amount claimed to be due by the plaintiff is the sum of one hundred and sixty-four dollars seventy cents.

7. And the said jurors say that they are ignorant in point of law on which side they ought upon the facts to find the issue, but that if the court should be of opinion that the plaintiffs are entitled to recover the money paid as duty on the said one hundred and eight quilts over and above the amount claimed to be due by said plaintiffs then they find for said plaintiffs in the sum of one hundred and sixty-four dollars seventy cents, with interest thereon from November 1, 1883, but if the court should be of opinion that the plaintiffs are not entitled to recover upon the facts and law, then they find for the defendant.

SPECIFICATION OF ERROR.

The court erred in entering judgment on the special verdict in favor of the plaintiffs and against the defendant.

The collector assessed the duties on the quilts composed of cotton and eider down under the following clause in Schedule I of the act of the 3d of March, 1883 (22 U. S. Stats., 506):

> Cotton cords, braids, gimps, galloons, webbing, goring, suspenders, braces, and all manufactures of cotton, not specially enumerated or provided for in this act, and corsets, of whatever material composed, thirty-five per centum ad valorem.

Those composed of silk and eider down were assessed under the following clause in Schedule L of the same act (22 U. S. Stats., 510):

> All goods, wares, and merchandise, not specially enumerated or provided for in this act, made of silk, or of which silk is the component material of chief value, fifty per centum ad valorem.

The plaintiffs claimed the goods should have been assessed under section 2513, enacted under section 6 of the same act (22 U. S. Stats., 523), which provides:

> There shall be levied, collected and paid on the importation of all raw or unmanufactured articles not herein enumerated or provided for, a duty of ten per centum ad valorem; and all articles manufactured, in whole or in part, not herein enumerated or provided for, a duty of twenty per centum ad valorem.

The last clause of section 2499, Revised Statutes, provided:

> On all articles manufactured from two or more materials, the duty shall be assessed at the highest rates at which any of its component parts may be chargeable.

This provision of section 2499, Revised Statutes, is thus modified by the act of the 3d of March, 1883 (22 U. S. Stat., 491):

> And on all articles manufactured from two or more materials, the duty shall be assessed at the highest rates *at which the component material of chief value* may be chargeable. If two or more rates of duty should be applicable to any imported article, it shall be classified for duty under the highest of such rates: *Provided*, That non-enumerated articles similar in material and quality and texture and the use to which they may be applied to articles on the free-list, and in the manufacture of which no dutiable materials are used, shall be free.

On appeal the Secretary of the Treasury sustained the assessment of the collector, on the ground stated in the following opinion:

(6179.)

COTTON AND DOWN AND SILK AND DOWN QUILTS—DUTY ON.

TREASURY DEPARTMENT, *February* 18, 1884.

SIR: This Department is in receipt of your letter, dated the 2d ultimo, transmitting the appeal (2224*i*) of Messrs. Sheppard, Arrison & Sheppard from your decision assessing duty at the rate of 35 per cent. ad valorem, and 50 per cent. ad valorem, respectively, on certain cotton and down and silk and down quilts imported by them, per "Lord Gough", October 27, 1883, and claimed in the protest to be dutiable as manufactures not otherwise enumerated, at the rate of 20 per cent. ad valorem.

Quilts are not specially enumerated in the tariff, and as down, which constitutes the material of chief